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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,941	01/04/2002	Wendell B. Colson	4686/00004	4413
22910	7590	07/28/2005		
BANNER & WITCOFF, LTD. 28 STATE STREET 28th FLOOR BOSTON, MA 02109-9601				
			EXAMINER BEFUMO, JENNA LEIGH	
			ART UNIT 1771	PAPER NUMBER

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/869,941

Applicant(s)

COLSON ET AL.

Examiner

Jenna-Leigh Befumo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 158-199 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 158-199 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The Amendment submitted on May 10, 2005, has been entered. Claims 1 – 157 have been cancelled. Claims 158 and 160 have been amended. Therefore, the pending claims are 158 – 199.
2. The provisional double patenting rejection over Application 10/088,613 is withdrawn since claims in 10/088,613 which were directed to a nonwoven fabric have been cancelled.
3. The 35 USC 103 rejection of Hartstein (3,591,434) in view of Pittman et al. (3,753,842) is withdrawn since the combination does not teach a discontinuous adhesive layer with bridges of adhesive.

Terminal Disclaimer

4. The terminal disclaimer filed on May 10, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 6,805,771 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 158 – 160, 164, 169, 170, 178 – 180, 186, and 193 – 199 stand rejected under 35 U.S.C. 102(b) as being anticipated by Bascom (3,582,443) for the reasons of record.
7. Claims 158 – 160, 164, 165, 169, 170, 172, 172, 173, 178 – 180, 186, 193, 197, and 198 stand rejected under 35 U.S.C. 102(b) as being anticipated by Harwood (2,900,980) for the reasons of record.

Claim Rejections - 35 USC § 103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 158 – 167, 169 – 189, and 192 – 199 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hartstein in view of Bodford et al. (5,342,469) for the reasons of record.

10. Claims 168, 190, and 191 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartstein and Bodford et al., as applied to claims 164 and 186 above, and in further view of Pittman.

Claims 168, 190, and 191 are rejected for the reasons set forth in section 17 of the office action mailed on January 21, 2004.

11. Claims 161 – 163, 165 – 168, 171 – 174, 176, 177, 181 – 185, and 187 – 192 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bascom for the reasons of record.

Response to Arguments

12. Applicant's arguments filed May 10, 2005 have been fully considered but they are not persuasive. The applicant argues that Bascom fails to teach a structure which includes “bridges of adhesive between parallel yarns (response, page 9). As defined on page 5, paragraph 12, a bridge is a portion, fragment, or strand of adhesive which makes contact with two or more aligned yarns. Thus, while Bascom doesn't explicitly teach that the nonwoven fabric has a bridge, the adhesive layer in the nonwoven does have sections of adhesive material which contact more than one aligned yarn and therefore, read on the applicant's bridge limitation. Specifically, Bascom teaches that the adhesive is coated onto one or both sets of yarns on the side of the yarns adjacent to the perpendicular yarn sets. Hence, the continuous coating on the

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first set of yarns acts as the applicant's bridges of adhesive for the second set of yarns. Further, Bascom teaches using binder strands which would also function as adhesive bridges for the yarns lying perpendicular to them. Thus, the rejection is maintained.

13. The applicant also argues that Harwood fails to teach a structure which includes bridges of adhesive between the parallel yarns (response, page 10). However, Harwood discloses that at least one set of yarns can be coated with adhesive which is used to bond the sets of yarns running in different directions together. Thus, the adhesive coating on the yarns would make contact two or more strands and read on the applicant's adhesive bridge feature. Therefore, the rejection is maintained.

14. The applicant also argues that the combination Harstein and Bodford et al. fail to teach the claimed product because neither reference teaches the bridges of adhesive feature and because Bodford et al. discloses using a uniform adhesive layer (response, pages 10 – 11). First, the adhesive layer in the combination of the two references is its own individual layer which runs between the two sets of yarns and would inherently make contact with all the yarns in the finished composite, thus serving as an adhesive bridge. Further, it is unclear why the fact that the adhesive layer disclosed by Bodford et al. is nearly uniform has any effect on whether the claimed product would be produced by the combination. The discontinuous adhesive layer taught by Bodford et al. is substituted for the film layer disclosed by Hartstein to allow the composite fabric to be permeable and breathable. There is no requirement that the adhesive layer cannot be formed from uniformed fibers or have a uniform thickness. Thus, the rejection is maintained.

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15. Further, the applicant's arguments with respect to the addition of Pittman are not persuasive since Pittman is relied on to teach using different types of yarns in the nonwoven structure and not to teach the adhesive bridge structure. As set forth above, the combination of Hartstein and Bodford et al. disclose this limitation.

16. Finally, it is noted that the applicant has filed a request for an interview with the previous response. However, the request was not seen until after the requested time of the interview. The attorney is welcomed to call the Examiner at the number below to discuss the remaining issues in the case and the current response.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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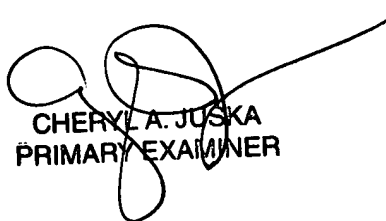
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472.

The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jenna-Leigh Befumo
July 22, 2005


CHERYL A. JUSKA
PRIMARY EXAMINER